IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 12422 of 2007(D)

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PETITIONER:

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SHAKEELA ASHRAF, AGED 38 YEARS,
W/O.(LATE) T.A.ASHRAF (P.C E-7217),
SHAKEELA MANZIL, U.C.COLLEGE P.O.,
ALUVA - 683 102, ERNAKULAM DISTRICT.

BY ADV. SRI.P.A.NOOR MUHAMMED

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF PERSONNEL & ADMINISTRATIVE REFORMS
(ADVICE-C), GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE PRINCIPAL SECRETARY,
DEPARTMENT OF HOME, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

3. THE DIRECTOR GENERAL OF POLICE,
STATE OF KERALA, POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM.

4. THE DISTRICT COLLECTOR, ERNAKULAM.

5. THE COMMISSIONER OF POLICE,
KOCHI CITY, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.P. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE DISABILITY CERTIFICATE BEARING NO.5147 DATED 27.10.2001 ISSUED BY THE MEDICAL BOARD OF THE GENERAL HOSPITAL, ERNAKULAM

EXT.P2: TRUE COPY OF THE APPLICATION DATED 10.9.2003 ALONG WITH THE RELEVANT ANNEXURE THERETO.

EXT.P3: TRUE COPY OF THE LETTER NO.3177/K3/2004/HOME DATED 16.01.2004 OF THE 2ND RESPONDENT

EXT.P4: TRUE COPY OF THE COMMUNICATION NO.62/2005/CM/VIP DATED 03.01.2005 FROM THE HON'BLE CHIEF MINISTER'S OFFICE, THIRUVANANTHAPURAM

EXT.P5: TRUE COPY OF THE REPRESENTATION DATED 11.03.2006

EXT.P6: TRUE COPY OF THE DECISION REPORTED IN AIR 1991 SC 469

EXT.P7: TRUE COPY OF THE JUDGMENT DATED 9.1.2007 IN W.P(C) NO.544/2007 OF THIS HON'BLE COURT

EXT.P8: TRUE COPY OF THE COVERING LETTER DATED 24.01.2007

EXT.P9: TRUE COPY OF THE LETTER NO.2360/K3/07/HOME DATED 8.3.2007 ISSUED BY THE 2ND RESPONDENT

EXT.P10: TRUE COPY OF THE COMPASSIONATE EMPLOYMENT SCHEME BEARING NO. G.O (P) 12/99/P & ARD DATED 24.5.1999

/TRUE COPY/

**K.BALAKRISHNAN NAIR,J.**

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**W.P ( C) No. 12422 of 2007**

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**Dated this the 11th day of July, 2007**

**J U D G M E N T**

The petitioner is an applicant for appointment under the Dying-in-Harness scheme. She is the widow of a police constable who died in harness . She is having two minor children and is living with her aged and ailing parents. She has no other source of income. So she is in extreme need of appointment under the Dying-in-harness scheme. The petitioner's application has been accepted. The same was found in order and she has been informed that her application is registered on 10.9.2003 and as and when her turn arises she will be given appointment. This intimation was given by Exhibit-P9 dated 8.2.2007. The petitioner seeks to quash that intimation and prays for appointment immediately.

2. A statement has been filed on behalf of the 1st respondent, in which, it is submitted that only 5% of the vacancies to which direct recruitment is made are set apart for appointment under the Dying-in-Harness Scheme for the post of L.D.Clerk/L.D Typist/Peon. Since there are no vacancies in the

Police Department, the matter has been reported to the General Administration Department, so that she could be appointed in some other department. She has opted to be appointed as L.D.Clerk. It is submitted that applicants registered upto September, 2001 for appointment to the post of L.D. Clerk alone were appointed. As and when the petitioner's turn arises, she will be appointed, it is submitted. The petitioner claims immediate appointment.

3. Normally, the appointment to public service is made after inviting applications and giving everyone a chance to apply for the post in view of Articles 14 and 16 of the Constitution of India. But in the matter of appointment on compassionate ground, the said procedure is waived and persons with basic qualification without anything more is granted appointment. But all the vacancies cannot be set apart for such appointments. Now only 5% vacancies are reserved to be filled up by candidates under the dying-in-harness scheme. The conditions of persons waiting in the queue ahead of the petitioner for appointment may be on more pathetic. This court is not justified in allowing the petitioner to jump the queue for the reason she

has approached this court. Therefore, the claim of the petitioner cannot be granted. The petitioner's case shall be considered for appointment as and when her turn arises as promised in Exhibit-P9. Subject to that direction, the writ petition is closed.

**(K.BALAKRISHNAN NAIR,JUDGE)**

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**K.THANKAPPAN,J**

**CRL.A. NO.92 OF 1999**

**ORDER**

**25th May, 2007**